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09/734,805	12/11/2000	William Hsiao-Yu Ku	AUS9-2000-0768-US1	2052

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EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 05/10/2004

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EXAMINER

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Commissioner for Patents

See Attached Examiner's Answer

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Sam Rimell
Primary Examiner
Art Unit: 2175



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 14

Application Number: 09/734,805
Filing Date: December 11, 2000
Appellant(s): KU ET AL.

Robert H. Frantz
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 2, 2003.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

On 9/25/03 applicant submitted an amendment after the final rejection. This amendment has been approved for entry and appellant's brief properly incorporates the after final amendment.

(5) *Summary of Invention*

Appellant's Summary of the Invention is not considered an appropriate summary since it is directed almost entirely to subject matter which was disclosed in appellant's disclosure as "related art". A concise summary of appellant's invention appears in appellant's disclosure at page 12.

(6) *Issues*

Appellant's statement of the issues are unacceptable because they are argumentative. The present appeal involves the single issue of whether claims 1-39 are properly rejected under 35 USC 102(b) as being anticipated by Hogan et al. (U.S. Patent 5,778,368).

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(7) *Grouping of Claims*

Appellant's Grouping of the claims are acceptable.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

U.S. Patent 5,778,368 to Hogan et al., published July 7, 1998.

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Hogan et al. ('368).

Claim 1: Hogan et al. defines a method system which enables a user to search program repositories, collectively indicated by (72) in FIG. 10. The repositories are a series of inter networked databases that contain programming objects (col. 8, lines 55-58). The repositories are accessible through the TCP/IP protocol (col. 11, lines 9-10), which is readable an ORB since it is a protocol that permits access to programming objects through a brokering interface (FIG. 4). The repositories are supported by servers (col. 11, lines 38-39—also see FIG. 2). In Hogan et

al., FIG. 4 defines a search screen that allows the repositories to be searched. The TCP/IP protocol utilized in Hogan et al. for conducting the search is considered to be an object request broker protocol by reason that this protocol allows the request of programming objects through the brokering interface of FIG. 4. A plurality of search criteria fields (18-21) are provided. The user then receives a results list of available repository units (object oriented programs) along with the attributes (metadata) of each repository unit (col. 15, lines 3-4).

Claim 2: The user can input program object name (repository unit file name, col. 10, line 17. Also note the text box 19 in FIG. 4 which allows the input of any listed attribute).

Claim 3: The user can input a repository identifier (repository name, col. 10, line 15).

Claim 4: The user can input an object server identifier (processor type, col. 10, line 29).

Claim 5: The user can input an object container identifier (repository unit password, col. 10, line 17).

Claim 6: Since the repositories contain object oriented programs (col. 8, lines 55-58), the queries for the repositories containing these objects would be considered a CORBA type query, since queries performed on the CORBA system are for the purpose of obtaining object oriented computer programs or object oriented program components. The queries made in the Hogan et al. system have the exact same purpose, and thus are CORBA type queries.

Claims 7-10: Col. 15, lines 3-4 states that the displayed results can be sorted according to any of the listed attributes. Since the attributes of object name, object server identifier, object container identifier and object modification date (col. 10, line 10 through col. 10, line 17) are each listed attributes, the results of the search query can be sorted according to any one of these attributes.

Claim 11: FIG. 1 illustrates a user's local disk (3) which is inherently capable of saving any input search or search result.

Claim 12: Any input of data or search query constitutes an input of a user remark, and can be saved on the local disk (3).

Claim 13: The purchase record of purchased data (col. 15, line 15) reads as the claimed history list. A history list is, by definition, a history of transactions. It will include some minimal description of each transaction (criterion) and a listing that defines all the transactions (a list).

Claim 14: See remarks for claim 1.

Claim 15: See remarks for claim 2.

Claim 16: See remarks for claim 3.

Claim 17: See remarks for claim 4.

Claim 18: See remarks for claim 5.

Claim 19: See remarks for claim 6.

Claims 20-23: See remarks for claims 7-10.

Claim 24: See remarks for claim 11.

Claim 25: See remarks for claim 12.

Claim 26: See remarks for claim 13.

Claim 27: See remarks for claim 1.

Claim 28: See remarks for claim 2.

Claim 29: See remarks for claim 3.

Claim 30: See remarks for claim 4.

Claim 31: See remarks for claim 5.

Claim 32: See remarks for claim 6.

Claim 33-36: See remarks for claims 7-10.

Claim 37: See remarks for claim 11.

Claim 38: See remarks for claim 12.

Claim 39: See remarks for claim 13.

(11) *Response to Argument*

Claims 1-3, 7-12, 14-16, 20-25, 27-29:

(1) Appellant argues that the present set of claims invoke the usage of the CORBA system, and that the TCP/IP protocol referred to by the Examiner and disclosed by Hogan et al. does not equate to the CORBA system.

However, Examiner has never stated the TCP/IP protocol discussed by Hogan et al. fully equates to the CORBA system. Examiner's findings are that the present set of claims do not invoke CORBA at all. As a result, appellant's arguments that CORBA and TCP/IP are dissimilar are essentially moot because examiner does not find that CORBA is ever even being called for in this claim set.

The basic disputation arises from appellant's reference to an "object request broker protocol" in claim 1. Appellant appears to be making the assertion that this language invokes the CORBA system, while examiner maintains that this language is a broad recitation that is not necessarily limited to the CORBA system, but invokes any protocol capable of facilitating requests for programming objects located in repositories.

Examiner maintains several reasons for concluding that CORBA is not invoked in this claim set. For one, the term “CORBA” is not explicitly used, so it not reasonable to assume that it is being invoked. Secondly, appellant never provides a definition in the disclosure that affirmatively links the phrase “object request broker protocol” to CORBA. In reviewing appellant’s original specification, the word “protocol” is invoked only once, at page 18, line 20. The entire sentence reads:

“It will be understood from the foregoing description that various modifications and changes may be made in the disclosed preferred embodiment of the invention without departing from the true spirit and scope, such as the use of alternate programming methodologies or languages, alternate computer platforms and software, operating systems and communications protocols.” (emphasis added).

This is the only point in the original specification where appellant invokes the term “protocol”, and the only possible conclusion that can be drawn from this statement is that appellant clearly does not intend to be limited to the protocol known in the CORBA system. In fact, this quotation makes no mention of CORBA at all, and suggests that various communications protocols are well within the scope of the invention.

Accordingly, Examiner concludes that the TCP/IP system described by Hogan et al. is in fact readable as an “object request broker protocol” because TCP/IP is a communications protocol which permits, in the Hogan system, requests for objects located in object repositories through a brokering interface (FIG. 4).

(2) Appellant argues that Hogan et al. does not teach an “object interface repository”, by reason that Hogan et al. does not disclose CORBA style interface definitions which would be necessary to provide interface repositories.

Examiner does not agree with this assertion by reason that this claim grouping does not invoke CORBA at all. Since the CORBA system is not being invoked in the claimed invention, it is unreasonable to assume that all of the claimed components have CORBA elements from the CORBA system.

In the present instance, claim 1 calls for the present invention to include “interface repositories”. Claim 1 clearly does not state that the interface repository is part of a CORBA standard system and does not state that any particular interface definitions are required. Thus, the term “ object interface repository” can reasonably be interpreted as any repository system that permits an interface to programming objects. The CORBA standard is not required. In the case of Hogan et al., those repositories are the RTES repositories illustrated in FIG. 10 and which contain programming objects that can be accessed via the interface of FIG. 4.

Claims 4, 17 and 30: Appellant argues that Hogan et al. lacks a teaching for input of a program object server identifier. Examiner maintains that Hogan et al. is not silent on this feature, and explicitly points to col. 10, line 29 of Hogan et al. as teaching the input of a processor type as correlating to the input of a server identifier. A server is in fact a processor, and data that describes a specific type of processor would literally identify that processor.

Claim 5, 18 and 31: Appellant argues that Hogan et al. lacks a teaching for input of an object container identifier. Examiner maintains that Hogan et al. teaches the feature at col. 10, line 17, where it refers to a repository unit password. Since a password grants access to a specific

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repository, it can be readily described as identifying that repository. The password is not a totally meaningless set of data. It connects the user to a specific repository and thus facilitates the identification of that repository (container identifier).

Claims 6, 19 and 32: Appellant argues that Hogan et al. is lacking a CORBA interface repository. Here, appellant is actually invoking the term "CORBA", unlike the previous claims sets, where no mention of CORBA is ever made. However, a closer reading of claims reveals that appellant is not actually defining a CORBA interface repository as a structure of the invention. Rather, these claims are calling for a method step and computer code for performing a CORBA standard query. These claims are not actually stating that the invention includes the CORBA physical elements, but only that a CORBA type of query step is being performed. Examiner maintains that the system of Hogan et al. provides a user interface (FIG. 4) that generates queries for object oriented computer programs and program components (col. 8, lines 56-58). In the standard CORBA system, a user interface exists that permits users to make queries to obtain object oriented programs and program components. Thus, the system Hogan et al. is performing the method step of initiating a CORBA type query for object oriented computer programs.

Claims 13, 26 and 39: Appellant argues that Hogan et al. does not teach a history list comprising previously stored criterion input and lists. Examiner maintains that this feature is explicitly taught at col. 15, line 15, where reference is made to a purchase record of checked out repository units. A purchase record is by its own definition a history of purchases made by users. It will include criterion (some minimal description of each item in the record) and a list (the complete record of items checked out).

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(11) Response to Argument

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



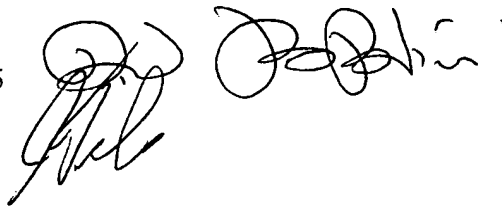
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May 6, 2004

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